

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow. Claims 1-2, 4-10, and 12 have been rejected. Claims 1-2, 4-10, and 12 have been cancelled without prejudice, and new Claims 13-36 have been added. No new matter has been added. Claims 13-36 will therefore remain pending in this application upon entry of this Reply and Amendment.

Claim Rejections – 35 U.S.C. § 103

On pages 2-3 of the Office Action, the Examiner rejected Claims 1-2 and 10 as being obvious over German Patent No. DE 33 30 823 A1 titled “Closing Plug for an Accumulator” to Krabatsch et al. (“Krabatsch et al.”) under 35 U.S.C. § 103(a). On page 4 of the Office Action, the Examiner rejected Claims 4-7 and 12 as being obvious over Krabatsch et al. in view of U.S. Patent No. 4,201,647 titled “Measuring Electrodes and Process ” to Spaziante et al. (“Spaziante et al.”) under 35 U.S.C. § 103(a). On page 8 of the Office Action, the Examiner rejected Claims 8-9 as being obvious over Krabatsch et al. in view of U.S. Patent No. 6,733,921 titled “Rechargeable Electric Battery” to Richter et al. (“Richter et al.”) under 35 U.S.C. § 103(a).

The Applicants do not agree with or acquiesce in the rejections of Claims 1-2, 4-9, 10, and 12 under 35 U.S.C. § 103(a). To advance prosecution on the merits, however, Claims 1-2, 4-9, 10, and 12 have been cancelled and new Claims 13-36 are presented. Each of new Claims 13-36 is patentable over Krabatsch et al., whether taken alone or in proper combination with Spaziante et al. and/or Richter et al.

Claim 13 is in independent form and recites a “rechargeable battery” comprising, in combination with other elements, a “sealing plug having an upper part and a lower part, the lower part comprising a splash basket” that “comprises a plurality of plates that extend from the upper end of the splash basket to the terminal end of the splash basket, the plates separated from each other by slots that extend to the terminal end of the splash basket such that the plates are not

coupled together at the terminal end of the splash basket to allow free movement of the plates at the terminal end of the splash basket.

Claim 23 is in independent form and recites a “rechargeable battery” comprising, in combination with other elements, a “sealing plug having an upper part covering the openings on the outside of the cover and a lower part having a splash basket” that “comprises a plurality of plates separated by slots distributed around the circumference of the splash basket, the slots continuing to the terminal end of the splash basket such that the plates at the terminal end of the splash basket are not connected to adjacent plates.”

Claim 32 is in independent form and recites a “sealing plug” comprising, in combination with other elements, a “splash basket having an upper end and a lower terminal end” in which “the splash basket comprises a plurality of plates separated by slots that extend from the upper end of the splash basket to the terminal end of the splash basket, the slots narrowing in width from an upper end of the splash basket to the terminal end of the splash basket; wherein the plates are not connected to adjacent plates at the terminal end of the splash basket to allow free movement of the plates relative to each other upon insertion into an opening of the rechargeable battery.”

In contrast to the “rechargeable battery” recited in Claims 1 and 23 and the “sealing plug” recited in Claim 32, Krabatsch et al. is directed to a “Closing Plug for an Accumulator” and discloses in Figure 1, for example, a ring-like member 24 (referred to by the Examiner as a “lower edge support 24”) at the lower end of the plug. Spaziant et al. is directed to “Measuring Electrodes and Process” and discloses a process where an “electrode is utilized for determining the charge conditions of a battery” (see column 4, lines 59-60). Richter et al. is directed to a “Rechargeable Electric Battery” and discloses a “splash basket 5 which projects into the cell and prevents acid splashes entering the interior of the plug” (see column 4, lines 25-28).

The Examiner acknowledged at page 5 of the Office Action that Krabatsch et al. does not disclose plates that are not connected to adjacent plates at a terminal end of a splash basket (with underlining added for emphasis):

Since there is no showing of unexpected results or showing of criticality of the end of Applicant's slots being free as claimed by the Applicant as opposed to the slots of Krabatsch et al. having lower edge support 24 at the end of the slots of Krabatsch et al., the plug of Applicant is obvious variant of the plug of Krabatsch et al. Examiner also notes that without the oring 24 of Krabatsch et al. being present would save material costs in the plug of Krabatsch et al.

The "rechargeable battery" recited in independent Claims 13 and 23 and the "sealing plug" recited in Claim 32 would not have been obvious in view of Krabatsch et al. under 35 U.S.C. § 103(a), alone or in proper combination with Spaziante et al. and/or Richter et al.

Krabatsch et al., alone or in proper combination with Spaziante et al. and/or Richter et al., does not disclose, teach or suggest a "rechargeable battery" comprising, in combination with other elements, a "plurality of plates that extend from the upper end of the splash basket to the terminal end of the splash basket, the plates separated from each other by slots that extend to the terminal end of the splash basket such that the plates are not coupled together at the terminal end of the splash basket to allow free movement of the plates at the terminal end of the splash basket" as recited in Claim 13 or a "plurality of plates separated by slots distributed around the circumference of the splash basket, the slots continuing to the terminal end of the splash basket such that the plates at the terminal end of the splash basket are not connected to adjacent plates" as recited in Claim 23. Krabatsch et al., alone or in proper combination with Spaziante et al. and/or Richter et al., also does not disclose, teach or suggest that "plates are not connected to adjacent plates at the terminal end of the splash basket to allow free movement of the plates relative to each other upon insertion into an opening of the rechargeable battery."

The Examiner indicated on page 5 of the Office Action that the Applicant has provided "no showing of . . . criticality of the end of Applicant's slots being free." The Applicant

respectfully disagrees. The present specification includes numerous descriptions related to the criticality of the free ends of the plates. Paragraphs [0006] and [0014]-[0016] of the present specification are provided here as one example of such a statement (with underlining added for emphasis):

[0006] An electrical rechargeable battery which is described by the Laid-Open Specification DE 198 56 691 A1 has degassing plugs which are arranged in a cell cover and on whose lower part a splash basket is provided. On its circumference, the splash basket has slots which widen downwards. The splash basket likewise has a base, which is tilted inwards and extends upwards in a conical shape towards the center of the plug. At the bottom, the slots are bounded by the base. This makes the degassing plug stiff, which means that the degassing plug must be inserted accurately at right angles to the cell cover.

[0014] According to an exemplary embodiment, a battery (e.g., a rechargeable lead-acid vehicle battery for use in starting, lighting, and ignition applications) includes a housing which has two or more cells that can be filled with an electrolyte. . . . A sealing plug is also provided that can be introduced into each of the openings (e.g., for sealing openings which are incorporated above the cells in the battery) such that an upper part of the sealing plug covers the openings on the outside, and a lower part of the sealing plug extends in the direction of the cells and has a splash basket which surrounds a cavity and has longitudinal slots distributed over its circumference. According to an exemplary embodiment, the slots continue as far as a free end of the splash basket.

[0015] One advantageous feature of such an arrangement is that the cover of a rechargeable battery can be sealed relatively easily by means of the sealing plug (e.g., the sealing plug need not be inserted absolutely at right angles to the cover surface). If the sealing plug is inserted obliquely into the cover of a rechargeable battery, and the splash basket in the process abuts against the inner walls of the rechargeable battery, then the insertion process can be continued further to its final position owing to the flexibility provided for the splash basket by means of the continuous slots.

[0016] According to an exemplary embodiment, the sealing plug is integral. The splash basket elasticity which is achieved by the

slots is in this case advantageously transferred to the entire sealing plug. It is particularly preferable for the sealing plugs to be produced using a plastic injection-molding method. This results in the advantage of slight elasticity in the longitudinal direction as well. The mobility of the plates, which are formed by the slots, of the splash basket allows the sealing plug to be inserted into the cover via the openings even without being centered exactly.

Accordingly, the Applicants have provided a clear description of the criticality of having free ends of the splash basket in which the plates are not coupled to each other to restrict their movement. The advantage of such a configuration is not disclosed, taught, or suggested by Krabatsch et al., whether taken alone or in proper combination with Spaziante et al. and/or Richter et al.

To transform the “closing plug for an accumulator” of Krabatsch et al., the “Measuring Electrodes and Process” of Spaziante et al., and the “Rechargeable Electric Battery” of Richter et al. into a “rechargeable battery” (such as recited in Claims 13 and 23) or the “sealing plug” recited in Claim 32 would require still further modification, and such modification is taught only by the Applicant’s own disclosure.

Independent Claims 13, 23, and 32, considered as a whole, would not have been obvious in view of Krabatsch et al., alone or in proper combination with Spaziante et al. and/or Richter et al. Therefore, Claims 13, 23, and 32 are patentable over Krabatsch et al., Spaziante et al. and Richter et al.

Dependent Claims 14-22, 24-31, and 33-36, which depend variously from independent Claims 13, 23, and 32, are also patentable. See 35 U.S.C. § 112 ¶ 4.

The Applicant respectfully request consideration and allowance of all pending Claims 13-36.

* * *

It is submitted that each outstanding objection and rejection to the Application has been overcome, and that the Application is in a condition for allowance. The Applicants request consideration and allowance of all pending claims.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date: September 12, 2008

By: /Matthew D. Rabe/

FOLEY & LARDNER LLP
Customer Number: 26371
Telephone: (414) 297-5302
Facsimile: (414) 297-4900

Matthew D. Rabe
Attorney for Applicant
Registration No. 61,819